

1 DANIEL G. BOGDEN
 2 United States Attorney
 3 PATRICK BURNS
 4 Assistant United States Attorney
 5 Nevada State Bar #: 11779
 6 501 Las Vegas Boulevard South, Suite 1100
 7 Las Vegas, Nevada 89101
 8 PHONE: (702) 388-6336 / FAX: (702) 388-6418
 9 John.P.Burns@usdoj.gov

10 Attorney for the United States of America

11 **UNITED STATES DISTRICT COURT
 12 DISTRICT OF NEVADA**

13 -oOo-

14 UNITED STATES OF AMERICA,

15 Plaintiff,

16 vs.

17 LUCAS COELHO PAIVA REGO,
 18 a/k/a "Bruno Rodrigues," a/k/a
 19 "Lucas Rego," et al.,

20 Defendants.

21 Case No.: 2:17-cr-00001-KJD-CWH

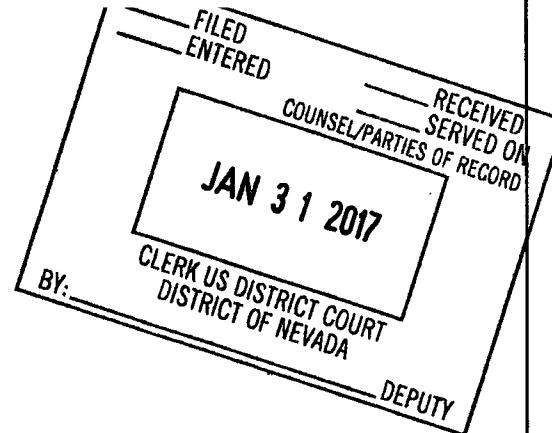
22 [UNDER SEAL]

23 GOVERNMENT'S EMERGENCY EX
 24 PARTE MOTION TO UNSEAL
 ENTIRE INDICTMENT

25 COMES NOW the United State of America, by and through DANIEL G.
 26 BOGDEN, United States Attorney, and PATRICK BURNS, Assistant United States
 27 Attorney, and hereby respectfully submits this Emergency Ex Parte Motion to Unseal
 28 Entire Indictment.

29 **I. Factual and Procedural Background**

30 On January 3, 2017, the Special Grand Jury returned an indictment charging the
 31 twenty-one named defendants with: Conspiracy to Commit Fraud and Related Activity
 32 in Connection with Access Devices (18 U.S.C. § 1029(b)(2)); Producing, Using, or
 33



1 Trafficking in a Counterfeit Access Device (18 U.S.C. § 1029(a)(1)); Using or Trafficking
2 in an Unauthorized Access Device (18 U.S.C. § 1029(a)(2)); Possession of Fifteen or More
3 Counterfeit or Unauthorized Access Devices (18 U.S.C. § 1029(a)(3)); Possession of
4 Access Device-Making Equipment (18 U.S.C. § 1029(a)(4)); Aggravated Identity Theft
5 (18 U.S.C. § 1028A); Possession of Counterfeit Visa, Permit, or Other Document (18
6 U.S.C. § 1546(a)); Conspiracy to Commit Money Laundering (18 U.S.C. § 1956(h)); and
7 Money Laundering (18 U.S.C. § 1956(a)(1)). Defendants Lucas Coelho Paiva Rego
8 (Rego), Leonardo Augusto Oliveira Santos (Oliveira Santos), and Henrique Ortolani De
9 Souza Vila Real (Real) appeared on the indictment on January 20, 2017, at which time
10 the indictment was partially unsealed in redacted fashion. Defendants Anderson
11 Clayton Mariano Alcantara (Alcantara), Amysterdan Barbosa Da Silva (Da Silva), Davi
12 Dias Fernandes (Fernandes), and Lorenzo Ramon Sala Moura (Moura) were
13 subsequently variously arraigned in the Central District of California and the Southern
14 District of Florida. They were arraigned using a redacted version of the sealed
15 indictment, which was unsealed as to the allegations relevant to them. The Government
16 now seeks to have the Court order the indictment unsealed in its entirety.
17

18 **POINTS AND AUTHORITIES**

19 **II. Argument**

20 **A. Legal Standard for Magistrate Judge's Discretion to Unseal Grand
21 Jury Indictment**

22 Federal Rule of Criminal Procedure 6(e)(4) grants a magistrate judge the power
23 to seal an indictment:

24 The federal magistrate to whom an indictment is returned may
direct that the indictment be kept secret until the defendant is in custody

1 or has been released pending trial. The clerk must then seal the indictment,
2 and no person may disclose the indictment's existence except as necessary
3 to issue or execute a warrant or summons.

4 Fed.R.Crim.P. 6(e)(4).

5 The "obvious purpose" of the Rule "is to prevent the requirement of an indictment from
6 serving as a public notice that would enable the defendant to avoid arrest." *United States*
7 *v. Davis*, 598 F.Supp. 453, 455 (S.D.N.Y. 1984) (quoting *United States v. Muse*, 633 F.2d
8 1041, 1043 (2d Cir.1980)). The Second Circuit has held that "there are various legitimate
9 prosecutorial objectives, including, but not limited to, the facilitation of arrest, that will
10 justify the sealing of an indictment." *United States v. Srulowitz*, 819 F.2d 37, 40 (2d Cir.
11 1987). The Sixth Circuit has held that "the need to avoid compromising an ongoing
12 investigation" may justify the sealing of an indictment. *United States v. Wright*, 343 F.3d
13 849 (6th Cir. 2003). Even where an indictment is properly sealed, the Government must
14 unseal the indictment "as soon as its legitimate need for delay has been satisfied." *United*
15 *States v. Watson*, 599 F.2d 1149, 1154 (2d Cir. 1979).

16 **B. The Government Certifies that the Need for Delay in Unsealing the
17 Indictment Has Been Satisfied and the Indictment Should Be
18 Immediately Unsealed in its Entirety**

19 At this point in the government's prosecution, unsealing of the indictment in its
20 entire, unredacted form would not compromise ongoing efforts to arrest outstanding
21 defendants or the ongoing investigation. Because the legitimate need for delay in
22 unsealing the indictment has now been satisfied, the indictment should be unsealed in
23 its entirety. *Watson, supra*.

24 **III. Conclusion**

25 WHEREFORE, after consideration of the included facts, points, authorities,

1 exhibits, and arguments, the United States respectfully requests that this Court GRANT
2 this motion and immediately order the indictment unsealed in its entirety.

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4 DATED this 31st. January, 2017.

5 Respectfully submitted,

6 DANIEL G. BOGDEN
7 United States Attorney

8  for

9 PATRICK BURNS
10 Assistant United States Attorney

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14 IT IS ORDERED that the government's motion to unseal the entire indictment is
15 GRANTED. To the extent the government seeks to unseal the entire case, it may
16 request to do so in a separate motion.

17

18 DATED: February 1, 2017

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20 _____
21 C.W. HOFFMAN, JR.
22 UNITED STATES MAGISTRATE JUDGE
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